

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

**FILED**

**SEPTEMBER 11, 2007**

KAREN S. MITCHELL  
CLERK, U.S. DISTRICT COURT

EMILIO H. CHAVEZ, JR.,

Petitioner,

v.

NATHANIEL QUARTERMAN, Director,  
Texas Department of Criminal Justice,  
Correctional Institutions Division,

Respondent.

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2:07-CV-0146

**REPORT AND RECOMMENDATION TO DISMISS**  
**PETITION FOR A WRIT OF HABEAS CORPUS**

On July 16, 2007, petitioner tendered to this Court a Petition for a Writ of Habeas Corpus By a Person in State Custody. Petitioner, however, failed to complete the declaration on page -9- of the form petition, and failed to inscribe his signature on that page. Therefore, the petition was deficient. Consequently, on August 6, 2007, the Court Ordered petitioner to submit to the Court, on or before August 20, 2007, an "Amended Petition" bearing petitioner's signature and the date of execution. Petitioner was warned that failure to timely comply with the Order could result in the original petition being unfiled.

As of this date, petitioner has not filed an Amended Petition form and is in direct disregard of the Court's Order. Further, petitioner has not paid the \$5.00 filing fee in this case despite petitioner's receipt of deposits totaling \$420.01 during the six-month period prior to the filing of this petition. Moreover, petitioner has not communicated with the Court, in any manner, with

regard to this case. It is the opinion of the undersigned that petitioner has neglected his case to such an extent that it warrants dismissal.

### RECOMMENDATION

It is the RECOMMENDATION of the United States Magistrate Judge to the United States District Judge that the Petition for a Writ of Habeas Corpus filed by petitioner EMILIO H. CHAVEZ, JR. be DISMISSED for want of prosecution.

### INSTRUCTIONS FOR SERVICE

The United States District Clerk is directed to send a copy of this Report and Recommendation to each party by the most efficient means available.

IT IS SO RECOMMENDED.

ENTERED this 11th day of September 2007.

  
CLINTON E. AVERITTE  
UNITED STATES MAGISTRATE JUDGE

### \* NOTICE OF RIGHT TO OBJECT \*

Any party may object to these proposed findings, conclusions and recommendation. In the event a party wishes to object, they are hereby NOTIFIED that the deadline for filing objections is eleven (11) days from the date of filing as indicated by the “entered” date directly above the signature line. Service is complete upon mailing, Fed. R. Civ. P. 5(b)(2)(B), or transmission by electronic means, Fed. R. Civ. P. 5(b)(2)(D). When service is made by mail or electronic means, three (3) days are added after the prescribed period. Fed. R. Civ. P. 6(e). Therefore, any objections must be filed on or before the fourteenth (14<sup>th</sup>) day after this recommendation is filed as indicated by the “entered” date. See 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b); R. 4(a)(1) of Miscellaneous Order No. 6, as authorized by Local Rule 3.1, Local Rules of the United States District Courts for the Northern District of Texas.

Any such objections shall be made in a written pleading entitled “Objections to the Report

and Recommendation.” Objecting parties shall file the written objections with the United States District Clerk and serve a copy of such objections on all other parties. A party’s failure to timely file written objections to the proposed findings, conclusions, and recommendation contained in this report shall bar an aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings, legal conclusions, and recommendation set forth by the Magistrate Judge in this report and accepted by the district court. *See Douglass v. United Services Auto. Ass’n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).